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July 6, 2011

EA-11-130

Mr. Sam Belcher
Vice President
Nine Mile Point Nuclear Station, LLC
P.O. Box 63
Lycoming, NY 13093-0063

SUBJECT: NINE MILE POINT NUCLEAR STATION, LLC - NRC SECURITY INSPECTION
REPORT 05000220/2011403 AND 05000410/2011403; PRELIMINARY
GREATER THAN GREEN FINDING

Dear Mr. Belcher:

On May 27, 2011, the U.S. Nuclear Regulatory Commission (NRC) completed a security baseline inspection at your Nine Mile Point Nuclear Station, LLC (NMP). The inspection covered one or more of the key attributes of the security cornerstone of the NRC's Reactor Oversight Process. The enclosed inspection report documents the inspection results, which were discussed on May 27, 2011, with you and other members of your staff.

The inspection examined activities conducted under your licenses as they relate to security and compliance with the Commission's rules and regulations and with the conditions of your licenses. The inspectors reviewed selected procedures and records, observed activities, and interviewed personnel.

The attached report documents one finding that has the potential for greater than very low security significance (i.e., greater than Green as determined by the Baseline Security Significance Determination Process (BSSDP)). The deficiency was promptly corrected or compensated for, and the plant was in compliance with applicable physical protection and security requirements within the scope of this inspection before the inspectors left the site.

The finding had a cross-cutting aspect in the area of human performance (decision making), because the licensee failed to conduct an effectiveness review to verify the validity of underlying assumptions and failed to use conservative decision making [H.1.(b)]. If you disagree with the cross-cutting aspect assigned to any finding in this report, you should provide a response

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within 30 days of the date of this inspection report, with the basis for your disagreement, to the Regional Administrator, Region I, and the NRC resident inspectors at NMP Nuclear Station.

As discussed in the enclosed inspection report, the finding is also an apparent violation of NRC requirements, and is therefore being considered for escalated enforcement action in accordance with the NRC's Enforcement Policy, found at: <http://www.nrc.gov/reading-rm/doc-collections/enforcement>.

In accordance with NRC Inspection Manual Chapter (IMC) 0609, "Significance Determination Process," we intend to complete our evaluation using the best available information and issue our final determination of significance within 90 days of the date of this letter. The significance determination process encourages an open dialogue between NRC staff and the licensee; however, the dialogue should not impact the timeliness of the staff's final determination.

Before we make a final decision on this matter, we are providing you an opportunity to:

(1) attend a Regulatory Conference where you can present to the NRC your perspective on the facts and assumptions the NRC used to arrive at the finding and assess its significance; or
(2) submit your position on the finding to the NRC in writing. If you request a Regulatory Conference, it should be held within 30 days of receipt of this letter, and we encourage you to submit supporting documentation at least one week prior to the conference in an effort to make the conference more efficient and effective. If a Regulatory Conference is held, it will be closed for public observation because it involves sensitive security information. If you decide to submit only a written response, such a submittal should be sent to the NRC within 30 days of the receipt of this letter. If you decline to request a Regulatory Conference or submit a written response, you relinquish your right to appeal the final SDP determination, in that by not doing either, you fail to meet the appeal requirements stated in the Prerequisite and Limitation sections of Attachment 2 of IMC 0609.

Please contact Mr. James Trapp of my staff at (610) 337-5186 within 10 days of the date of this letter to notify the NRC of your intentions. If we have not heard from you within 10 days, we will continue with our significance determination and enforcement decision. The final resolution of this matter will be conveyed in separate correspondence. Because the NRC has not made a final determination in this matter, no Notice of Violation is being issued for this inspection finding at this time. In addition, please be advised that the number and characterization of the apparent violation described in the enclosed inspection report may change as a result of further NRC review.

Additionally, a licensee identified finding which was determined to be of very low security significance (i.e., Green as determined by the BSSDP) is listed in this report. The deficiency was promptly corrected or compensated for, and the site was in compliance with applicable physical protection and security requirements within the scope of this inspection before the inspectors left the site. However, because of the very low security significance and because it was entered into your corrective action program, the NRC is treating this violation as a non-cited violation consistent with Section 2.3.2 of the NRC Enforcement Policy. If you contest any non-cited violation in this report, you should provide a response within 30 days of the date of this

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inspection report, with the basis for your denial, to the Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555-0001; with copies to the Regional Administrator, Region I; the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001; and the NRC resident inspectors at Nine Mile Point Nuclear Station.

In accordance with 10 CFR 2.390 of the NRC's Rules of Practice, a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system, Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Website at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). However, because of the security-related information contained in the enclosure, and in accordance with 10 CFR 2.390, a copy of this letter's enclosure will not be available for public inspection.

In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit requirements for your response, if any. This practice will ensure that your response will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system, ADAMS. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.22. Otherwise, mark your entire response Security-Related Information - Withhold Under 10 CFR 2.390 and follow the instructions for withholding in 10 CFR 2.390(b)(1).

Sincerely,

/RA/

Peter R. Wilson, Deputy Director
Division of Reactor Safety

Docket Nos.: 50-220, 50-410
License Nos.: DPR-63, NPF-69

Enclosure:

NRC Inspection Report No. 05000220/2011403 and 05000410/2011403

w/Attachment: Supplemental Information

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* See Previous Concurrence

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cc w/encl; w/OUO-SRI:

A. Verno, Manager, Nuclear Security

R. Frazier, Homeland Security Advisor, NY State Dept of Homeland Security

F. Murray, President and CEO, NY State Energy Research and Development Authority

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